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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/725,521  | 12/03/2003  | Nobuyuki Shirie      | 8012-1218           | 3762             |
| 466   | 7590        | 10/11/2005           | EXAMINER            |                  |
| YOUNG & THOMPSON<br>745 SOUTH 23RD STREET<br>2ND FLOOR<br>ARLINGTON, VA 22202 |             |                      | NGUYEN, THONG Q     |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2872                |                  |

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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|--|---------------------------------------|--|--|
| <p align="center"><b>Advisory Action</b><br/><b>Before the Filing of an Appeal Brief</b></p> | <p>Application No.<br/>10/725,521</p> | <p>Applicant(s)<br/>SHIRIE, NOBUYUKI</p> |  |
|  | <p>Examiner<br/>Thong Q. Nguyen</p>   | <p>Art Unit<br/>2872</p>                 |  |

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 26 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: None.
- Claim(s) objected to: None.
- Claim(s) rejected: 1-13 and 21-25.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached sheet(s).
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s) \_\_\_\_\_.
13. ☐ Other: \_\_\_\_\_.

Thong Q. Nguyen  
Primary Examiner  
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Continuation of 5. Applicant's reply has overcome the following rejection(s): the rejection of claims 21 and 22 under 35 USC 112, first paragraph.

### DETAILED ACTION

1. Regarding to the objection to the specification as failing to provide proper antecedent basis for the claimed subject matter related to the structure of the flare stopper as recited in claims 1, 6 and 25 which objection was set forth in the previous Office action, page 2, item 2, applicant's arguments provided in the Response of 9/26/05, pages 2-5 have been fully considered but they are not persuasive. The applicant is respectfully invited to review the objection as set forth in the previous Office action. In other words, the objection does not object that the subject related to the structure of the flare stopper is a new matter to the disclosure. ***The objection is made because the specification does not have any written description which supports for the structure of the flare stopper as claimed.*** Applicant is respectfully invited to show which part or page of the specification which discloses that the flare stopper comprises a first section and a second section wherein the innermost portion of the first section meets the outermost portion of the second section and the innermost portion of the second section defines the circular inner periphery as claimed.
2. The rejection of claims 21-22 under 35 USC 112, first paragraph is now withdrawn because applicant's arguments provided in the Response, pages 5-6, are persuasive.
3. The rejections of claims 1-13 and 21-25 under 35 USC 102(b) and under 35 USC 103(a) over the prior art as set forth in the previous Office action, pages 4-11, are repeated. Applicant's arguments provided in the Response, pages 6-9, have been fully considered but they are not persuasive.

First, applicant has argued that the device provided by Kohmoto is directed to a light-tight seal between a moveable lens barrel and a cover and the seal provided by Kohmoto is not a flare stopper as claimed in the present application. The Examiner respectfully disagreed because the recitation thereof "flare stopper" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). Further, the claim(s) do(es) not provide how the stopper stops the so-called "flare". It is also noted that the seal provided by Kohmoto is able to stop any harmful light from entering the lens barrel of the taking lens system.

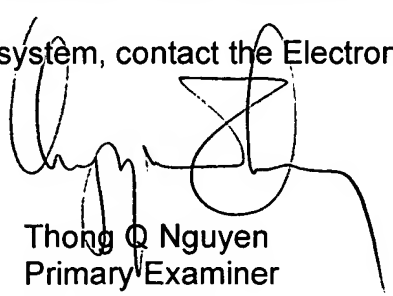
Second, regarding to the applicant's arguments that the circular section of the light-intercepting element 25 provided by Kohmoto is not the circular truncated cone as recited in the claim. The Examiner respectfully disagrees for the following reasons: a) the present claim claimed a circular truncated cone without any features related to the structure of the so-called "circular truncated cone"; and b) the curved section of the light intercepting element 25 of Kohmoto has a circular section with an inclined direction respect to the light path in which the light intercepting element circled thereof.

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q. Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thong Q. Nguyen  
Primary Examiner  
Art Unit 2872

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